

CITY OF SILVERTON
ORDINANCE
18-24

AN ORDINANCE OF THE SILVERTON CITY COUNCIL ANNEXING 0.27 ACRES OF LAND LOCATED AT 440 EUREKA AVENUE INTO THE CITY LIMITS OF THE CITY OF SILVERTON, OREGON AND ZONING THE PROPERTY R-1, SINGLE FAMILY RESIDENTIAL. MARION COUNTY ASSESSOR'S MAP 071W03AA TAX LOT 01900.

WHEREAS, the City of Silverton has been petitioned to annex 440 Eureka Avenue into the City Limits of the City of Silverton, Oregon and zone the property R-1, Single Family Residential. Marion County Assessor's Map 071W03AA Tax Lot 01900.

WHEREAS, the area proposed for annexation is described as a tract of land situated in Section 3, T7S, R1W, W.M. Marion County Oregon and more particularly described as follows:

Beginning at a 5/8 inch rebar with a yellow plastic cap which marks the Southeast corner of Parcel 2, MCSR Partition Plat No. 2000-10.

- (1) Thence North 07° 47' 45" East 221.16 feet;
- (2) Thence South 45° 08' East 2.274 chains;
- (3) Thence South 44° 30' West 2.38 chains;
- (4) Thence South 00° 38' 54" East 11.41 feet;
- (5) Thence North 69° 49' 14" West 32.10 feet to the point of beginning.

NOW, THEREFORE THE CITY OF SILVERTON ORDAINS AS FOLLOWS:

Section 1. **Legislative Annexation.** In accordance with ORS 222.120:

(1) The Silverton City Council cannot submit this proposal for annexation of territory to the electors of the city for their approval or rejection. A public hearing before the Council was held October 1, 2018, at which time the electors of the city had an opportunity to appear and be heard on the question of annexation.

(2) The area described above and as shown on Exhibit "B" is hereby annexed to the City of Silverton, effective October 31, 2018.

Section 2. **Consent to Annexation.** In accordance with ORS 222.125 the Council finds there is no need to hold an election in the city or in any contiguous territory proposed to be annexed as all of the owners of land in that territory, and not less than 50 percent of the electors, if any, residing in the territory, have consented in writing to the annexation of the land in the territory and statement of their consent is filed with the Council.

Section 3. **Timing of Consents.** The Council finds that only statements of consent to annexation

which are filed within any one-year period prior to the hearing have been submitted and describes the 0.27 acres of real property, all located in Marion County, Oregon that shall be annexed to the City of Silverton upon recording with the Secretary of State.

Section 4. **Notice to Utilities.** In accordance with ORS 222.005 the City Recorder shall, no later than 10 working days after passage of this ordinance approving the proposed annexation, provide by certified mail to all public utilities, electric cooperatives and telecommunications utilities operating within the city, each site address to be annexed as recorded on county assessment and tax rolls, a legal description and map of the proposed boundary change and a copy of the City Council's resolution or ordinance approving the proposed annexation.

Section 5. **Notice to County.** In accordance with ORS 222.010, the City Recorder shall report to the Marion County Clerk and County Assessor all changes in the boundaries or limits of the city. The report shall contain a detailed legal description of the new boundaries established by the city. The report shall be filed by the city within 10 days from the effective date of the change of any boundary lines.

Section 6. **Assessor Valuation.** In accordance with ORS 222.030 the Recorder shall request that the Assessor shall furnish within 20 days, a statement showing for the current fiscal year the assessed valuation of the taxable property in the territory to be annexed.

Section 7. **Notice to Secretary of State.** In accordance with ORS 222.177 the City Recorder shall transmit to the Secretary of State:

- (1) A copy of this ordinance proclaiming the annexation.
- (2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.
- (3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.
- (4) A copy of the ordinance issued under ORS 222.120 (4).
- (5) An abstract of the vote upon the referendum, if a referendum petition was filed, with respect to the ordinance adopted under ORS 222.120.

Section 8. **Exhibits.** The City Council adopts the Findings of Fact, attached hereto as "Exhibit A", a map of the area being annexed as Exhibit "B", and by this reference all incorporated herein.

Section 9. **Zone Designation.** Upon annexation the property shall have a City of Silverton zoning designation of **R-1 (Single Family Residential)**.


Section 10. **Effective Date.** In accordance with ORS 222.180 the effective date of annexation shall be October 31, 2018.

Ordinance adopted by the City Council of the City of Silverton, this 1st day of October, 2018.



Mayer, City of Silverton
Kyle Palmer

ATTEST:



City Manager/Recorder, City of Silverton
Christy S. Wurster



City of Silverton
Community Development
306 South Water Street
Silverton, OR 97381

STAFF REPORT

PROCEDURE TYPE IV

FILE NUMBER: AN-18-04

LAND USE DISTRICT:
UT-5, URBAN TRANSITION – 5 ACRE

PROPERTY DESCRIPTION:
ASSESSOR MAP#: .071W03AA
LOTS #: 01900
SITE SIZE: 11,968 SQ. FT.
ADDRESS: 440 EUREKA AVENUE

PROPOSED DEVELOPMENT ACTION: ANNEXATION APPLICATION TO ANNEX 440 EUREKA AVENUE INTO THE CITY LIMITS AND ZONE THE PROPERTY R-1, SINGLE FAMILY RESIDENTIAL. THE PROPERTY IS 11,968 SQUARE FEET IN AREA AND IS DEVELOPED WITH A SINGLE FAMILY HOME AND AN ACCESSORY DWELLING UNIT. THE ANNEXATION REQUEST IS TO CONNECT TO CITY SEWER DUE TO A FAILING SEPTIC SYSTEM. THE PROPERTY IS ALREADY CONNECTED TO CITY WATER.

DATE: SEPTEMBER 17, 2018

- Attachments
- A. Vicinity Map and Review Criteria
 - B. Applicant's Findings
 - C. Conditions of Approval
 - D. Staff Report
 - E. Testimony

APPLICANT:
KATHRYN MCKEOWN
440 EUREKA AVENUE
SILVERTON, OR 97381

PROPERTY OWNER:
KATHRYN & ROBERT MCKEOWN
440 EUREKA AVENUE
SILVERTON, OR 97381

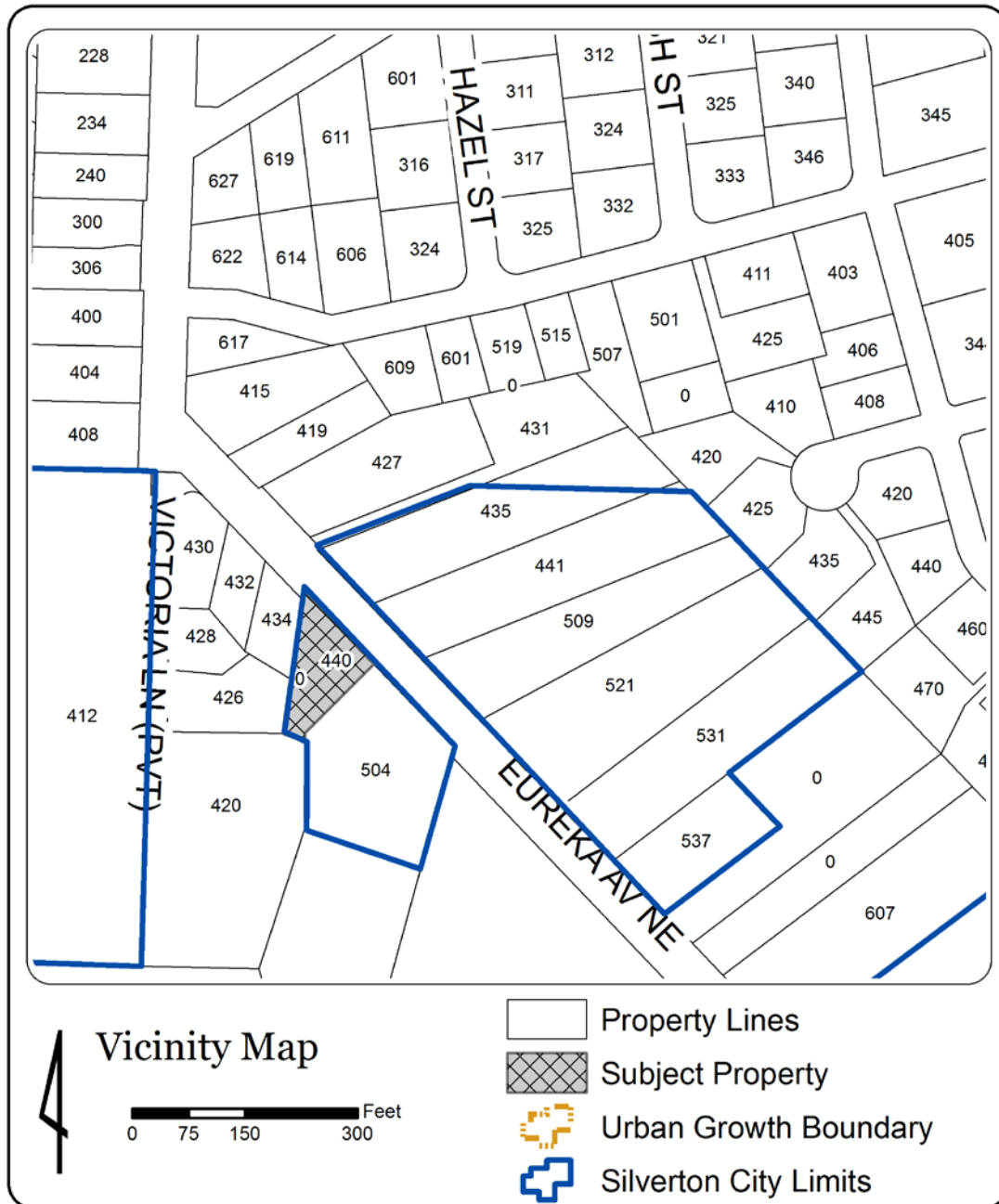
LOCATION: LOCATED ON THE SOUTH SIDE OF EUREKA AVENUE AT 440 EUREKA AVENUE

ATTACHMENT A: VICINITY MAP & REVIEW CRITERIA

Case File: AN-18-04

Vicinity Map and Surrounding Land Use Districts

- North – R-1, Single Family Residential
- East – UT-5, Urban Transition – 5 Acre
- South – R-1, Single Family Residential
- West – R-1, Single Family Residential



REVIEW CRITERIA:

4.10.140 Review Criteria. When reviewing a proposed annexation of land, the Planning Commission and City Council will consider the following standards and criteria:

1. Adequacy of access to the site; and
2. Conformity of the proposal with the city's comprehensive plan; and
3. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property. If extension or upgrading of any improvement is necessary to serve the area, such extension must be consistent with the city's infrastructure plans and must be an orderly and efficient arrangement for the extension of public services; and
4. The new area will meet city standards for any public improvements which may be necessary to serve the area (including but not limited to streets, including sidewalks, sanitary sewer, water, storm drainage); and
5. The area to be annexed is contiguous to the city and represents a logical direction for city expansion; and
6. The area is within the urban growth boundary, unless a health hazard due to failing septic systems or groundwater supplies is found to exist; and
7. The proposed use of the property is consistent with the applicable comprehensive plan designation; and
8. The proposed annexation shall be consistent with all applicable goals and policies of the Silverton comprehensive plan; and
9. Shall be in compliance with applicable sections of ORS Chapter 222; and
10. Natural hazards identified by the city, such as wetlands, floodplains and steep slopes, have been addressed by applicant's conceptual development plan; and
11. Urbanization of the subject property shall not have a significant adverse effect on areas identified or designated in the comprehensive plan as open space or as significant scenic, historic or natural resource areas; and
12. Economic impacts which are likely to result from the annexation shall be evaluated in light of the social and physical impacts. The overall impact which is likely to result from the annexation and development shall not have a significant adverse effect on the economic, social and physical environment of the community, as a whole; and
13. If the proposed area for annexation is to be residentially zoned, there must be less than a five-year supply of vacant and redevelopable land in terms of dwelling units per acre within the current city limits. "Redevelopable land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period. The five-year supply shall be determined from vacant and redevelopable land inventories and by the methodology for land need projections from the housing element of the comprehensive plan. If there is more than a five-year supply but less than an eight-year supply, the city may consider additional

factors, such as the likelihood of vacant parcels being developed in the near future, to determine if the public good would be served by the annexation. Properties proposed for annexation that have a current or probable public health hazard due to lack of full city water or sanitary sewer may be exempt from this criterion; and

14. Promotes the timely, orderly and economic provision of public facilities and services; and
15. The annexation is reasonable and that the public interest, present and future, will be best served by annexing the property.

ATTACHMENT B: APPLICANT'S FINDINGS

August 16, 2018

Jason Gottgetreu
Community Development Director
City of Silverton
306 S. Water Street
Silverton, OR 97381
503-874-2212

Re: 440 Eureka Avenue, Silverton, Minor Annexation Request

Dear Mr. Gottgetreu:

Please accept this application request for a minor annexation of 440 Eureka Avenue, Silverton, OR 97381.

The property in question is currently on City Water and private septic that has failed miserably. The property size (.27 acres) is prohibitive to re-structure the septic system and drain field according to the County. Parts of the sewage is in an open pit.

The sellers are in default on the property and there is a scheduled foreclosure date of November 7, 2018. We are helping them sell the home as a short sale, with the lien-holder being On-Pointe Credit Union. There are several liens on the property that will be retired if the sale goes through successfully. We have an accepted offer on the property under a conventional rehab loan, but the lender will not approve and close on the loan until the annexation is approved by the City of Silverton. If this application is accepted for the September Planning Commission meeting, and approved, and is approved at the October City Council, even with the 21-day appeal period, we could close on the transaction before the property is foreclosed on. That process can take several months, leaving an open cesspool and failed system, which is a safety and environmental hazard.

Since the property abuts City Sewer lines (the Scott Property immediately to the west is the last sewer hook-up and home in City limits) and is already on City water, it seems to make perfect sense to approve this annexation request, collect \$2750 in application fees, and another \$7,000 or so in permits and SDC charges, a \$10,000 approximate estimate you were kind enough to give me earlier this month. The estimated cost to extend the sewer line to the end of the property as required is approximately \$30,000, or \$200 per lineal foot.

This has been a very problematic property for all parties involved, and in our opinion, it is in everyone's best interest to annex it into the City, hook up to City Sewer, and vacate the septic system that has failed and remains a hazard.

I am not an artist, so I have included information and plat maps of the property provided by the Title Company (Amerititle) that clearly shows the lot size, house position, property lines, and other necessary information as required by the annexation criteria.

Site Plan:

- A. The home is located as shown on the Photo Map, Item 1. There is a small apartment at the back (SW) of the property that was approved by the County as a beauty Salon.

- B. Eureka is immediately in front of the home. The sanitary sewer line is immediately next door at the City limit edge. The property is on City water, PGE, NWNG, cable, etc. I have no idea about the storm drainage.
- C. There are no water features on or near the property. The house is serviced by City Water and all local utilities. It is not in the flood plain. The current septic is in the side and back of the house and the County is not willing to have it replaced or corrected, according to conversations the owners have had with that office. By the time it even could be repaired or replaced, if that were even possible, the house would be foreclosed on.
- D. Photo Map item 1 shows the home placement on the site. The apartment is at the back of the property close to the Southern/Western property line. The septic is in the back yard/side and drain field up front far from the neighboring property line to the West.
- E. Not really applicable. No trees will be removed or affected.
- F. We do not have access to that information. The lot is relatively flat and slopes in the front to the South, very slightly.
- G. No development. Just an existing home and ADU type structure of perhaps 400 s.f.

The narrative is simple. The home owners are losing their home to foreclosure unless it is sold as a short sale prior to November 7, 2018. We have an offer on it that the bank will accept. The home has a failed septic system that the County is not interested in having repaired or replaced, and the lot size to do so is prohibited anyway. The home has a value currently of about \$275,000. Without a septic or hookup to sewer, it cannot finance, and the buyer is getting a conventional rehab loan. The roof will be replaced, the sewer will be hooked up to coincide with the City water already hooked up, the landscaping will be tidied up, and the septic tank removed or decommissioned. If the annexation is not approved, it will go into foreclosure for several months and the open cesspool will remain as an environmental hazard. It is clearly in the best interest of all parties, including the City, to annex it in, eliminate the septic hazard, get the place attractive again under new owners, and improve the neighborhood by upgrading what is becoming an eyesore. Because the property is already on City Water, and the Sewer line is right there at the beginning of the west property corner adjacent to the City limits and last home in the City limits, it just makes sense. Thank you for your consideration.

Dwight H. Bladsoe
Applicant Representative
503-602-4320
503-874-4666

200606924
TICOR TITLE



After Recording Return To:
Robert C. Mckeown
Kathryn S. Mckeown
440 Eureka Street
Silverton OR 97381

Send Tax Statements To:
Robert C. Mckeown
Kathryn S. Mckeown
440 Eureka Street
Silverton OR 97381

Title Order No. 200606924
Escrow No. 200606924
Tax Account No. 021046 071W
3AA 2000, R21044 071W 3AA
1900

WARRANTY DEED
(ORS 93.850)

Deborah Harroun, an estate in fee simple, Grantor, conveys and warrants to Robert C. Mckeown and Kathryn S. Mckeown, Husband and Wife, Grantee, the following described real property:

See Exhibit 'A' attached hereto and by reference made a part hereof.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)).

The true consideration for this conveyance is \$270,000.00.

Dated this 4th day of April, 2006
Deborah Harroun
Deborah Harroun



State of OR, County of Marion)ss.

This instrument was acknowledged before me on 4/4, 2006
by Deborah Harroun
Rhonda M Parent
Notary Public My commission expires: 1/27/2007

EXHIBIT 'A'

Legal Description:

A parcel of land in the Northeast quarter of Section 3, Township 7 South, Range 1 West of the Willamette Meridian, City of Silverton, Marion County, Oregon, said parcel bound by the following:

Beginning at a 5/8 inch rebar with a yellow plastic cap which marks the Southeast corner of Parcel 2, Partition Plat No. 2000-10, Record of Partition Plats for said county; thence North 07°47'45" East, on the West line of land described in Reel 1285, Page 714, Deed Records for said County, 221.16 feet; thence South 45°08' East, in the middle of Eureka Street, 2.274 chains; thence South 44°30' West 2.38 chains, more or less, to a 5/8 inch rebar with a yellow plastic cap; thence South 00°38'54" East, on the most Easterly line of Parcel 3 of the said Partition, 11.41 feet; thence North 69°49'14" West 32.10 feet to the point of beginning.

Subject to:

The said property is free from encumbrances except:

The rights of the public in and to that portion of the premises herein described lying within the limits of public roads, streets and highways.

An Easement created by instrument, including the terms and provisions thereof,

In favor of: Charlotte L. Macy
For: Use and Maintenance of Water Pipeline
Dated: May 7, 1966
Recorded: May 10, 1966
Volume: 616 Page: 423
in Marion County, Oregon.

An Easement created by instrument, including the terms and provisions thereof,

In favor of: Dixon H. Bledsoe and Lisa A. Bledsoe
For: Roadway and Maintenance Agreement
Dated: February 1, 2000
Recorded: February 1, 2000
Reel: 1667 Page: 14
in Marion County, Oregon.

ATTACHMENT C: CONDITIONS OF APPROVAL

1. Utility work in the public right-of-way requires permits from MCPW Engineering and an Access Permit is required from Marion County for access to Eureka Avenue.
2. Extensions of all lines will be to the far end of the property requesting service.
3. A Petition for Improvement / Waiver of Remonstrance for roadway improvements along the site's frontage of Eureka Avenue including a half street improvement with curbs and sidewalks shall be signed prior to the signing of the Ordinance.

ATTACHMENT D: STAFF REPORT, AN-18-04

FINDINGS OF FACT

A. Background Information:

1. The applicant submitted an application on August 16, 2018 to annex 440 Eureka Avenue into the City Limits and zone the property R-1, Single Family Residential. The property is 11,968 square feet in area and is developed with a single family home and an accessory dwelling unit. The annexation request is to connect to City sewer due to a failing septic system. The property is already connected to City water.
2. Notice was mailed to all property owners within 700 feet of the subject area on August 22, 2018. As of this writing, September 4, 2018 no written testimony has been received. The notice was published in the Silverton Appeal on August 29, 2018. The site was posted on August 31, 2018. The Planning Commission reviewed the application at their September 11, 2018 meeting and recommends the Council approve the request.
4. The City Council passed Resolution 18-06 on February 5, 2018 that stated in part, When annexation applicants refuse to authorize the City to submit the annexation proposal to the City electorate, and the area proposed for annexation is greater than two (2) acres in size, the City shall place a hold on consideration of the proposed annexation for the sooner of one year after the date of said refusal or the final adjudication of SB 1573. The subject area is less than two acres in size and not subject to the hold.

B. Silverton Development Code (SDC):

1. Article 4 – Administration of Land Use and Development

Section 4.1.500 Type IV Procedure

A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications

Findings: This application is being reviewed through a Type IV procedure. The applicant submitted an application on August 16, 2018 meeting Criterion A. A public notice for this request was mailed to all property owners within 700 feet of the site on August 22, 2018. The notice was published in the Silverton Appeal on August 29, 2018. The site was posted on August 31, 2018. The application was reviewed by the Planning Commission September 11, 2018 and will be before the City Council October 1, 2018.

Unless mandated by state law, annexation, delayed annexations, and/or extension of city services may only be approved by a majority vote among the electorate. On March 15, 2016, the State enacted SB 1573 that states that the legislative body of a city shall annex a territory petitioning annexation without submitting the proposal to the electors of the city if the territory is within the Urban Growth Boundary, the territory upon annexation will be subject to the acknowledged comprehensive plan, the territory is contiguous to the city

limits and the proposal conforms to all other requirements of the city's ordinances. The territory is within the UGB, is contiguous to the city limits and would be subject to the comp plan upon annexation.

The City Council passed Resolution 18-06 on February 5, 2018 that stated in part, When annexation applicants refuse to authorize the City to submit the annexation proposal to the City electorate, and the area proposed for annexation is greater than two (2) acres in size, the City shall place a hold on consideration of the proposed annexation for the sooner of one year after the date of said refusal or the final adjudication of SB 1573. The subject property is less than two acres in size and not subject to the hold. City Staff were directed in all other regards to comply with the Charter, Comprehensive Plan, Development Code and all other applicable land use laws in processing annexation proposals. This staff report will review the proposal for conformity with all other requirements of the city's ordinances.

Section 4.10.140 Review Criteria – Annexation

When reviewing a proposed annexation of land, the Planning Commission and City Council will consider the following standards and criteria:

1. Adequacy of access to the site; and

Findings: The site is located on the south side of Eureka Avenue. The site is 11,968 square feet in area and is developed to the fullest potential. Eureka Avenue is under Marion County jurisdiction.

Utility work in the public right-of-way requires permits from MCPW Engineering and an Access Permit is required from Marion County for access to Eureka Avenue (**Condition 1**). Criterion 1 is met.

2. Conformity of the proposal with the City's Comprehensive Plan; and;

Findings: The parcel to be annexed is located within the UGB and is designated Single Family. The zoning of the site will be R-1, Single Family Residential. The existing single family home and ADU are in conformance with the Comprehensive Plan (Comp Plan).

The Goal of the Urbanization Element of the Comprehensive Plan is to: "Provide adequate land to meet anticipated future demands for urban development in a logical and orderly manner." And has Objectives to, maintain a supply of buildable residential, commercial and industrial land within the City's UGB as allowed by state law; Continue to work with Marion County to manage land development between the city limits and UGB; and Consistently apply and enforce the City' development policies, codes, and standards.

The Goal of the Air, Water and Land Resources Quality seeks to "Maintain and improve the quality of the area's air, water, and land resources." The area proposed for annexation is developed with a single family home and an accessory dwelling unit. The annexation request is to connect to City sewer due to a failing septic system. The property is already connected to City water. As such, this annexation and subsequent connection to the City's sewer system will comply with the goals and policies within the Air, Water and Land Resources Quality and will not lead to the degradation of the natural resources.

A Goal of the Transportation Element is to “Provide a safe, convenient, aesthetic and economical transportation system.” Any development of the site will be required to meet transportation, access and circulations, and roadway standards.

Eureka Avenue is under Marion County jurisdiction. Condition 1 indicates a permit will be required from Marion County for work within the Right-of-Way. This may also include a requirement from Marion County to close one of the legs of the tow driveway accesses onto Eureka Avenue.

The Goal of the Housing element is to “Meet the projected housing needs of citizens in the Silverton area.” The Objectives of the Housing Element are to, Encourage a “small town” environment; Encourage preservation, maintenance and improvement of the existing housing stock; Encourage new housing in suitable areas to minimize public facility and service costs and preserve agricultural land; and Encourage an adequate supply of housing types necessary to meet the needs of different family sizes and incomes.

The requested annexation will be consistent with the goals and policies of the Economy element of the Comprehensive Plan. This element largely speaks to encouraging the diversification of the local economy and the proposed annexation and connection of a single family home to the sanitary sewer system will not have an impact upon this element.

With the public hearing held before the Planning Commission and City Council the requested annexation will satisfy the goal and policies of the Citizen Involvement element of the Comprehensive Plan. The purpose of the public hearing is to solicit and involve the public in the decision making process. The public hearing was published, posted, and notices were mailed in accordance with all requirements.

The Goal of the Public Facilities and Services Elements of the Comprehensive Plan is to “Provide orderly and efficient public facilities and services to adequately meet the needs of Silverton residents.” The water system, storm water system, and transportation network exist adjacent to the site. A sanitary sewer mainline exists at the northwest corner of the property in Eureka Avenue and will have to be extended to the far end of the property for connection.

Per SMC 13.12.046, Extensions of all lines will be to the far end of the property requesting service (**Condition 2**). If, however, the terrain or other physical features prevent future extensions of the sewer line beyond the property, then the sewer extension may terminate at a point perpendicular to the last possible developable site.

- 3. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property. If extensions or upgrading of any improvement is necessary to serve the area, such extension must be consistent with the city’s infrastructure plans and must be an orderly and efficient arrangement for the extension of public services; and*

Findings: The applicant is requesting annexation in order to connect to city sewer facilities. There are no identified Master Plan projects identified to serve the site. The water system, storm water system, and transportation network exist adjacent to the site. A sanitary sewer mainline exists at the northwest corner of the property in Eureka Avenue

and will have to be extended to the far end of the property for connection. Each of the utilities is the standard size for residential development. Public facilities are planned to be provided to serve the site; thereby meeting Criterion 3.

4. *The new area will meet city standards for any public improvements which may be necessary to serve the area (including but not limited to streets, including sidewalks, sanitary sewer, water, storm drainage); and*

Findings: The applicant is requesting annexation in order to connect to city sewer facilities. There are no identified Master Plan projects identified to serve the site. The water system, storm water system, and transportation network exist adjacent to the site. A Petition for Improvement / Waiver of Remonstrance for roadway improvements along the site's frontage of Eureka Avenue including a half street improvement with curbs and sidewalks shall be signed prior to the signing of the Ordinance (**Condition 3**). Development of the site will require the public facilities to be extended into the site in accordance with Public Works Design Standards to serve the home. Therefore Criterion 4 is met.

5. *The area to be annexed is contiguous to the city and represents a logical direction for city expansion; and*

Findings: The area is contiguous to the City. The site abuts the City Limits along the northern, southern, and western property lines. The annexation represents a logical direction for city expansion, meeting Criterion 5.

6. *The area is within the urban growth boundary, unless a health hazard due to failing septic systems or groundwater supplies is found to exist; and*

Findings: The area considered for annexation is inside the Urban Growth Boundary. The criterion is met.

7. *The proposed use of the property is consistent with the applicable comprehensive plan designation; and*

Findings: The use of the property will continue to be a single family dwelling with an accessory dwelling, permitted uses. It is designated Single Family of the Comprehensive Plan Map and will be zoned R-1, Single Family Residential, thereby meeting Criterion 7.

8. *The proposed annexation shall be consistent with all applicable goals and policies of the Silverton Comprehensive Plan; and*

Findings: The proposed annexation has been reviewed for conformity with the city's comprehensive plan earlier in the report.

9. *Shall be in compliance with applicable sections of ORS Chapter 222; and*

Findings: ORS 222 provides for a means of annexation by election or by action of the governing body. However, as noted above the City is no longer allowed to submit proposals for annexation to the electors of the city for their approval or rejection.

The proposal is following the Type IV procedure, consistent with ORS 222 for annexation procedures.

This application has been found to be in compliance with the applicable sections of ORS Chapter 222 and will follow all applicable state and local procedures. Therefore, this criterion has been met.

10. Natural hazards identified by the City, such as wetlands, floodplains and steep slopes have been addressed; and

Findings: There are no wetlands on the site and the site is not located within the floodplain. The site is flat. Natural hazards of the site have been addressed. The criterion is met.

11. Urbanization of the subject property shall not have a significant adverse effect on areas identified or designated in the Comprehensive Plan as open space or as significant scenic, historic or natural resource areas; and

Findings: There are no areas on the site identified or designated in the Comprehensive Plan as open space or as significant scenic, historic or natural resource areas. The criterion is met.

12. Economic impacts which are likely to result from the annexation shall be evaluated in light of the social and physical impacts. The overall impact which is likely to result from the annexation and development shall not have a significant adverse effect on the economic, social and physical environment of the community, as a whole.

Findings: The annexation will add an existing single family home with an accessory dwelling to the City Limits. The request is to be able to connect the existing dwellings to city sewer facilities. The applicant will be required to extend and connect to the sewer system to serve the property and will pay the Sewer System Development Charge for the impact to the system. The standard is met.

13. If the proposed area for annexation is to be residentially zoned, there must be less than a five-year supply of vacant and redevelopable land in terms of dwelling units per acre within the current city limits. "Redevelopable land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period. The five-year supply shall be determined from vacant and redevelopable land inventories and by the methodology for land need projections from the housing element of the comprehensive plan. If there is more than a five-year supply but less than an eight-year supply, the city may consider additional factors, such as the likelihood of vacant parcels being developed in the near future, to determine if the public good would be served by the annexation. Properties proposed for annexation that have a current or probable public health hazard due to lack of full city water or sanitary sewer may be exempt from this criterion; and

Findings: The most recent adopted Comprehensive Plan amendments have used a growth rate of 2% over the 20 year planning horizon. Given a 2% growth rate over the next 5

years with an average household size of 2.65 per the 2010 census, the 5 year supply of vacant and redevelopable land is 412 lots and the 8 year supply is 680 lots. The current amount of shovel ready lots in Silverton is 81 and the amount of redevelopable land amounts to 583 lots for a total supply of 664. The City is between the 5 year and 8 year supply which allows the City to consider additional factors when reviewing the annexation. The annexation is small in scale and is in an area that is nearly surrounded by the City Limits. The site is fully developed and no additional dwellings could be added. The public good will not be harmed. This review criterion is subjective in nature and the Planning Commission is able to make its own interpretation as to if it is met or not. If there is evidence in the record that could support approval and evidence that could support denial, and where the review criteria are subjective, the City Council gets to decide which evidence they find more persuasive. As long as a reasonable trier of fact could believe the evidence relied on for a decision, the approval or denial will stand.

14. Promotes the timely, orderly and economic provision of public facilities and services; and

Findings: The property is requesting annexation to connect to the sewer system due to a failing septic system, making the annexation timely.

15. The annexation is reasonable and that the public interest, present and future, will be best served by annexing the property.

Findings: The annexation will allow a dwelling with a failing septic system to connect to city sewer, which is in the public interest. This review criterion is subjective in nature and the City Council is able to make its own interpretation as to if it is met or not.

III. SUMMARY AND CONCLUSION

Findings have been made for all of the applicable Code sections. The proposed annexation may meet applicable Silverton Development Code Review Criteria and Standards.

The Planning Commission held a public hearing to evaluate the proposed annexation and recommends the City Council approve the application.

Once the City Council receives Planning Commission's recommendation on the annexation, the Council will review the findings and the recommendation in a public hearing.

Staff and the Planning Commission finds the application, as presented, meets or can meet the applicable City codes and requirements.

City Council Options:

The City Council shall:

- a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to the application, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application;

- b. Consider the recommendation of the planning commission; however, the city council is not bound by the commission's recommendation; and
- c. Act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

ATTACHMENT E: TESTIMONY

None Received.

Exhibit 'B'

